

**REMARKS**

In the Office Action, dated November 19, 2003, the Examiner states that Claims 22-43 are pending and Claims 22-43 are rejected. By the present Amendment, Applicant amends the claims.

In the Office Action, Claims 22-41 are rejected under 35 U.S.C. §103(a) as being unpatentable over Whiteside (US 3,330,598) in view of Brotherston (US 5,868,461). Claims 42 and 43 are rejected under 35 U.S.C. § 103(a) as unpatentable over Whiteside in view of Brotherston and Biggie et al. (US 5,687,438). The Applicant respectfully disagrees with these rejections.

The Applicant has cancelled the previous claims. However, the amended claims substantially conform to the previous claims, except for new Claims 44 and 45. Claim 44 now indicates that the chair is a nursing chair for aged and invalid persons, and includes the additional feature that the bladders are closed against inflow or outflow of air. Claim 45 includes the frame feature of previous Claim 22 (not included in Claim 44). With respect to the new claims, the Applicant makes the following comments regarding the cited references.

The claims are now directed to a nursing chair. Neither of the cited references, Whiteside nor Brotherson, are directed to a nursing chair. Furthermore, the Applicant considers that the rejection fails to establish a *prima facie* case of obviousness since there is no motivation within the references themselves to combine the references.

It is submitted that the question under 35 U.S.C. §103(a) is whether the totality of the art would collectively suggest the claimed invention to one of ordinary skill in this art. *In re Simon*, 461 F.2d 1387, 174 USPQ 114 (CCPA 1972).

That elements, even distinguishing elements, are disclosed in the art is alone insufficient. It is common to find elements somewhere in the art. Moreover, most, if not all, elements perform their ordained and expected functions. The test is whether the invention as a whole, in light of all the teachings of the references in their entireties, would have been obvious to one of ordinary skill in the art at the time the

invention was made. *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983).

It is insufficient that the art disclosed components of Applicants' claimed invention, either separately or used in other combinations. A teaching, suggestion, or incentive must exist to make the combination made by the inventor. *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1988).

The rejection states that Whiteside discloses a chair therein similar to the chair claimed in the present application except that there is no disclosure of an underlay, seat back pivot, wheels, or a metal frame support structure. The rejection then states that Brotherston shows a chair similar to Whiteside and has a pivotable backrest, seat portion, pivotable seat support structure, a leg support made of metal frame members, plastic sheet material, and wheels. The rejection states that one would be motivated to modify Whiteside in view of Brotherston in view of the suggestion in Brotherston that a chair with the metallic, pivotable leg, seat and backrest support structures allows for a reclining support of a user for long periods of time.

With respect to new Claim 45, and the claims dependent thereon, the Applicant considers that the motivation to combine the references as set out in the rejection is inadequate. Whiteside teaches a chair having inflatable chambers to provide support. Brotherston teaches a chair having plastic straps to provide support. These two chairs are totally dissimilar, the only similarity being that both are chairs. It is well known in the art to provide a chair with reclining support. Simply because the Brotherston chair relines, does not provide motivation to combine the frame and support structures of Brotherston to support the inflatable chambers of Whiteside. No reason or suggestion in the evidence of record exists why one of ordinary skill in the art would have added the support structures of Brotherston to support the inflatable chambers of Whiteside. There is only disclosure in Brotherston that the support structure directly supports a user, and not any other cushion or inflatable chamber. To combine the various components of these two references without any motivation to make the combination is impermissible hindsight.

With regard to Independent Claim 44, the Applicant considers that the Whiteside reference does not disclose that "each bladder is charged with a predetermined amount of air prior to use such that when in use each bladder is closed against inflow or outflow of air, and the amount of air is at the surrounding atmospheric pressure and displaces no more than 60% of the maximum contained volume of the bladder whereby the air may freely be displaced only within the bladder in use". The concept of precharging the bladder with air up to a maximum contained volume of 60% underlies the purpose of the invention for its use in a nursing home by aged and invalid persons. Aged and invalid persons are not in a position where they are concerned with adjusting the chair while in use. This is because they are often incapable of doing so and their caregivers are in many cases reticent to make sudden adjustments which could cause spinal or other damage.

The purpose of the present invention is to provide as large as possible area to support the user, to minimize bed sores and promote circulation. By precharging the bladders with an amount of air which does not completely fill the maximum volume of the bladders, a user may partially sink into the chair to be supported by a larger area.

In contrast, the chair taught by Whiteside has air chambers which are pressurized, at a pressure greater than atmospheric pressure (See Column 1, line 11, lines 26-30; Column 2, lines 5-7, lines 27-34; Column 3, line 18; Column 4, lines 5-7, lines 60-66).

In previous communications with the Examiner, the Examiner has indicated that the pressurization of the chambers could include zero or atmospheric pressure. The Applicant respectfully disagrees. Whiteside describes that chair as being pneumatically operated throughout the specification. Webster's Dictionary defines pneumatic as "2 a) filled with compressed air b) worked by compressed air". Compressed air is air under pressure.

The chair taught by Whiteside is the type commonly used in automobiles. Each of the pressurized compartments are adjusted to provide extra support to specific regions of a user's body. The user does not sink into these chairs. Common sense dictates that these chairs would not be suitable to aged and invalid persons.

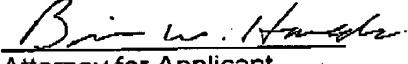
As shown in Figures 2-5 of Whiteside, the user therein is not shown as sinking partially into the chair. That is because in each figure the compartments are pressurized, although adjustably so.

For these reasons the Applicant considers that the Whiteside reference has not disclosed, taught or suggested a bladder partially charged with air claimed in Independent Claim 1. The Applicant therefore considers all the claims to be allowable.

In light of the foregoing response, all the outstanding objections and rejections have been overcome. Applicant respectfully submits that this application should now be in better condition for allowance and respectfully requests favorable consideration.

Respectfully submitted,

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Date

  
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